

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING STATEWIDE LEVIES FOR THE SUPPORT OF K-12 EDUCATION WITH A 4 PERCENT SALES TAX ON LUXURY GOODS; DEFINING "LUXURY GOODS"; INCLUDING SALES TAX PROCEEDS IN STATE EQUALIZATION AID; ELIMINATING THE AUTHORITY TO IMPOSE A SALES TAX IN A RESORT COMMUNITY, RESORT AREA, OR RESORT AREA DISTRICT EXCEPT FOR THE PURPOSE OF DEBT SERVICE ON EXISTING BONDS; AMENDING SECTIONS 7-7-4424, 7-7-4428, 15-1-111, 15-1-112, 15-10-420, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-39-110, 15-65-101, 15-65-121, 15-65-122, 15-68-101, 15-68-102, 15-68-820, 16-4-420, 17-3-213, 20-6-702, 20-9-212, 20-9-331, 20-9-333, 20-9-343, 20-9-620, 90-6-304, 90-6-305, 90-6-309, AND 90-6-403, MCA; REPEALING SECTIONS 7-6-1501, 7-6-1502, 7-6-1503, 7-6-1504, 7-6-1505, 7-6-1506, 7-6-1507, 7-6-1508, 7-6-1509, 7-6-1531, 7-6-1532, 7-6-1533, 7-6-1534, 7-6-1535, 7-6-1536, 7-6-1537, 7-6-1538, 7-6-1539, 7-6-1540, 7-6-1541, 7-6-1542, 7-6-1543, 7-6-1544, 7-6-1545, 7-6-1546, 7-6-1547, 7-6-1548, 7-6-1549, 7-6-1550, AND 20-9-360, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-7-4424, MCA, is amended to read:

"7-7-4424. Undertakings to be self-supporting. (1) The governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains self-supporting. The property taxes specifically authorized to be levied for the general purpose served by an undertaking ~~or resort taxes approved, levied, and appropriated to an undertaking in compliance with 7-6-1501 through 7-6-1509~~ constitute revenue of the undertaking and may not result in an undertaking being considered not self-supporting.

(2) The rates, fees, or charges prescribed, along with any appropriated property ~~or resort tax collections~~, must produce revenue at least sufficient to:

(a) pay when due all bonds and interest on the bonds, the payment of which the revenue has been pledged, charged, or otherwise encumbered, including reserves for the bonds; and

(b) provide for all expenses of operation and maintenance of the undertaking, including reserves."

Section 2. Section 7-7-4428, MCA, is amended to read:

"7-7-4428. Covenants in resolution authorizing issuance of bonds. Any resolution or resolutions authorizing the issuance of bonds under this part may contain covenants as to:

(1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the disposition of the proceeds;

(2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued, including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion of the property ~~and resort~~ tax revenue referred to in 7-7-4424;

(3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking, of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with the services, facilities, or commodities of the undertaking;

(4) the issuance of other or additional bonds payable from the revenue of the undertaking;

(5) the operation and maintenance of the undertaking;

(6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

(7) books of account and the inspection and audit of the books; and

(8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

(a) enter and take possession of the undertaking;

(b) operate and maintain the undertaking;

(c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and

(d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner as the municipality itself might do."

Section 3. Section 15-1-111, MCA, is amended to read:

"15-1-111. (Temporary) Reimbursement to local governments and schools -- duties of department and county treasurer -- statutory appropriation. (1) Prior to September 1, 1990, the department's agent in the county shall supply the following information to the department for each taxing jurisdiction within the county:

(a) the number of mills levied in the jurisdiction for tax year 1989;

(b) the number of mills levied in the jurisdiction for tax year 1990;

(c) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all personal property not secured by real property; and

(d) the total taxable valuation for tax years 1989 and 1990, reported separately for each year, of all personal property secured by real property.

(2) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property tax rates set forth in 15-6-138, prior to 1994, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145, prior to 1994. The department shall total the amounts for all taxing jurisdictions within the county.

(3) (a) The department shall remit to the county treasurer 50% of the amount of revenue reimbursable, determined pursuant to subsection (1), on or before November 30 and the remaining 50% on or before May 31.

~~(b) For tax year 1993 through tax year 1998, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, as adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.~~

~~(e)(b)~~ (i) For tax year 1999 through tax year 2008, the department shall remit to the county treasurer of each county the same amount remitted to the county treasurer for the fiscal year 1991, progressively reduced by 10% of the 1991 amount each year, in accordance with the following schedule:

Tax Year	Percentage of 1991 Remittance Amount
1999	90
2000	80
2001	70
2002	60
2003	50
2004	40
2005	30
2006	20
2007	10

2008 and following years 0

(ii) The amount remitted must be adjusted by the result of dissolved or combined taxing jurisdictions, as provided for in subsection (7). Fifty percent of the amount must be remitted on or before November 30 and the remaining 50% on or before May 31.

(4) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(5) (a) For the purposes of this section and subject to subsection (7), "taxing jurisdiction" means a jurisdiction levying mills against personal property and includes but is not limited to a county, city, school district, tax increment financing district, and miscellaneous taxing district.

(b) The term does not include county or state school equalization levies provided for in 15-10-107, ~~20-9-331, 20-9-333, 20-9-360,~~ 20-25-423, and 20-25-439.

(6) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse eligible taxing jurisdictions for reductions in tax rates on personal property.

(7) The following apply to taxing jurisdictions that were altered after tax year 1989:

(a) A taxing jurisdiction that existed in tax year 1989 and that no longer exists is not entitled to reimbursement under this section.

(b) A taxing jurisdiction that existed in tax year 1989 and that is split into two or more taxing jurisdictions or that is annexed to or is consolidated with another taxing jurisdiction is entitled to reimbursement based on the portion of 1989 taxable value within each new taxing jurisdiction. The department shall determine the portion of 1989 taxable value located in each taxing jurisdiction.

(c) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under this section unless the jurisdiction was created as described in subsection (7)(b). (Repealed effective July 1, 2008--secs. 66(2), 68(2), Ch. 422, L. 1997.)"

Section 4. Section 15-1-112, MCA, is amended to read:

"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing jurisdictions. (1) On or before January 1, 1996, for the reduction in payment under subsection (4) and by June 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the department shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 and provide that information to each

1 county treasurer. The reimbursement amount must be determined for each local government taxing jurisdiction
2 that levied mills on the taxable value of property described in 15-6-138 in the corresponding tax year. However,
3 the reimbursement does not apply to property described in 15-6-138 that has a reduced tax rate under
4 15-24-1402.

5 (2) (a) The reimbursement amount to be used as the basis for ~~the payment reduction under subsection~~
6 ~~(4) reimbursement~~ is the product of multiplying the tax year 1995 taxable value of property described in 15-6-138
7 for each local government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction and then multiplying
8 by 1/9th.

9 (b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996 is the
10 amount determined under subsection (2)(a) unless the tax year 1996 market value of property described in
11 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for
12 property described in 15-6-138 in the same jurisdiction.

13 (ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular
14 jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated 1996 tax
15 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
16 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
17 jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual tax year 1996 taxable value of
18 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
19 simulated 1996 tax is greater than the 1995 tax, the reimbursement amount is zero.

20 (c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997 is the
21 amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value of property
22 described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995
23 market value for property described in 15-6-138 in the same jurisdiction.

24 (ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular
25 jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated 1997 tax
26 from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual
27 taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the
28 jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual tax year 1997 taxable value of
29 property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the
30 simulated 1997 tax is greater than the 1995 tax, the reimbursement amount is zero.

(d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998 is the amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

(ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated 1998 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax year 1995 mill levy for the jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual tax year 1998 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy for the particular jurisdiction. If the simulated 1998 tax is greater than the 1995 tax, the reimbursement amount is zero.

(3) (a) For purposes of this section, "local government taxing jurisdiction" means a local government rather than a state taxing jurisdiction that levied mills against property described in 15-6-138, including county governments, incorporated city and town governments, consolidated county and city governments, tax increment financing districts, local elementary and high school districts, local community college districts, miscellaneous districts, and special districts. The term includes countywide mills levied for equalization of school retirement or transportation.

(b) The term does not include ~~the county or state school equalization levies~~ levy provided for in ~~20-9-331, 20-9-333, 20-9-360, and 20-25-439.~~

(c) Each tax increment financing district must receive the benefit of the state mill on the incremental taxable value of the district.

~~(4) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1996 by an amount equal to 38% of the reimbursement amount determined under subsection (2)(a) for all of the local government taxing jurisdictions in the county.~~

~~———(5) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2).~~

~~———(6) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for~~

tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):

~~———— (7) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~———— (8) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~———— (9) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~———— (10) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~———— (11) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~———— (12) County treasurers shall reduce the county payment to the state for the levy imposed under 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as determined by the department under subsection (2):~~

~~(13)(a)~~(4) The reimbursement amount for tax year 1999 and each subsequent tax year for 9 years must be progressively reduced each year by 10% of the reimbursement amount for tax year 1998, according to the following schedule:

Tax Year	Percentage of 1998 Reimbursement Amount
1999	90

1	2000	80
2	2001	70
3	2002	60
4	2003	50
5	2004	40
6	2005	30
7	2006	20
8	2007	10
9	2008 and following years	0

10 ~~(b) The reimbursement amount for each tax year must be the basis for reducing the amount remitted to~~
 11 ~~the state for the levy imposed under 20-9-360 in December of the same year and June of the following year.~~

12 ~~(14)(5) The county treasurer shall use the funds from the reduced payment to the state for the levy~~
 13 ~~imposed under 20-9-360 to reimburse each local government taxing jurisdiction in the amount determined by the~~
 14 ~~department under subsection (2). The reimbursement must be distributed to funds within local government taxing~~
 15 ~~jurisdictions in the same manner as taxes on property described in 15-6-138 are distributed. The reimbursement~~
 16 ~~in June must be distributed based on the prior year's mill levy, and the reimbursement in December must be~~
 17 ~~based on the current year's mill levy.~~

18 ~~(15)(6) Each local government taxing jurisdiction receiving reimbursements shall consider the amount~~
 19 ~~of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the~~
 20 ~~amount that would otherwise have to be raised by the mill levy.~~

21 ~~(16)(7) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no longer~~
 22 ~~be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction that is created~~
 23 ~~after January 1, 1996, will not be considered for revenue loss or reimbursement purposes. If a local government~~
 24 ~~taxing jurisdiction that existed prior to January of 1996 is split between two or more taxing jurisdictions or is~~
 25 ~~annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the~~
 26 ~~revenue loss and reimbursement is attributed to the new jurisdictions."~~

27

28 **Section 5.** Section 15-10-420, MCA, is amended to read:

29 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
 30 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount

1 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
2 years. The maximum number of mills that a governmental entity may impose is established by calculating the
3 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
4 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
5 one-half of the average rate of inflation for the prior 3 years.

6 (b) A governmental entity that does not impose the maximum number of mills authorized under
7 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
8 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
9 carried forward may be imposed in a subsequent tax year.

10 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
11 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
12 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

13 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
14 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
15 taxable property.

16 (3) (a) For purposes of this section, newly taxable property includes:

17 (i) annexation of real property and improvements into a taxing unit;

18 (ii) construction, expansion, or remodeling of improvements;

19 (iii) transfer of property into a taxing unit;

20 (iv) subdivision of real property; and

21 (v) transfer of property from tax-exempt to taxable status.

22 (b) Newly taxable property does not include an increase in value that arises because of an increase in
23 the incremental value within a tax increment financing district.

24 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
25 release of taxable value from the incremental taxable value of a tax increment financing district because of:

26 (i) a change in the boundary of a tax increment financing district;

27 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

28 (iii) the termination of a tax increment financing district.

29 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
30 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment

1 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
2 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

3 (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
4 property that results in the property being taxable as class four property or as nonqualified agricultural land as
5 described in 15-6-133(1)(c).

6 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

7 (a) school district levies established in Title 20; or

8 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
9 excluded under 2-9-212 or 2-18-703.

10 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
11 under 15-6-131 and 15-6-132.

12 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
13 increase the number of mills to account for a decrease in reimbursements.

14 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
15 of 15-10-107, ~~20-9-331, 20-9-333, 20-9-360~~, 20-25-423, and 20-25-439. However, the number of mills calculated
16 by the department may not exceed the mill levy limits established in those sections. The mill calculation must be
17 established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the
18 calculation must be rounded up to the nearest whole mill.

19 (9) (a) The provisions of subsection (1) do not prevent or restrict:

20 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

21 (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

22 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

23 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
24 actually assessed in a subsequent year.

25 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
26 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
27 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
28 funds by a county or municipality during that time.

29 (11) The department may adopt rules to implement this section. The rules may include a method for
30 calculating the percentage of change in valuation for purposes of determining the elimination of property, new

1 improvements, or newly taxable property in a governmental unit."

2
3 **Section 6.** Section 15-24-1402, MCA, is amended to read:

4 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
5 a construction permit is issued, qualifying improvements or modernized processes that represent new industry
6 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their
7 taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal
8 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
9 taxed at 100% of its taxable value.

10 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body
11 of the affected county or the incorporated city or town must have approved by separate resolution for each
12 project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for
13 in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until
14 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

15 (b) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but
16 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

17 (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
18 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The
19 resolution may provide that real property other than land, personal property, improvements, or any combination
20 thereof is eligible for the tax benefits described in subsection (1).

21 (d) Property taxes abated from the reduction in taxable value allowed by this section are subject to
22 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
23 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(c) of this section. The recapture
24 is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided
25 in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The
26 amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts
27 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this
28 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary
29 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body
30 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control

1 of the taxpayer.

2 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The
3 application by the taxpayer must first be approved by the governing body of the appropriate local taxing
4 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the
5 tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the
6 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

7 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
8 for local high school district and elementary school district purposes and to the number of mills levied and
9 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
10 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,
11 ~~20-9-331, 20-9-333, or 20-9-360~~ or otherwise required under state law.

12 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
13 all taxing jurisdictions affected by the tax benefit."
14

15 **Section 7.** Section 15-24-1703, MCA, is amended to read:

16 **"15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of delinquent
17 property taxes pursuant to this part:

18 (1) applies to all mills levied in the county or otherwise required under state law, including levies or
19 assessments required under Title 15, chapter 10, ~~20-9-331, 20-9-333,~~ and 20-25-423;

20 (2) does not apply to assessments made against property for the payment of bonds issued pursuant to
21 Title 7, chapter 12."
22

23 **Section 8.** Section 15-24-1802, MCA, is amended to read:

24 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
25 leased and operated by a local economic development organization is eligible for an exemption from property
26 taxes as provided in this section.

27 (2) In order to qualify for the tax exemption described in this section, the governing body of the county,
28 consolidated government, incorporated city or town, or school district in which the property is located shall
29 approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing
30 body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved,

1 the governing body shall do so by a separate resolution for each business incubator in its respective jurisdiction.
2 The governing body may not grant approval for the business incubator until all of the applicant's taxes have been
3 paid in full or, if the property is leased to a business incubator, until all of the owner's property taxes on that
4 property have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing,
5 the governing body shall determine that the local economic development organization:

6 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under
7 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

8 (b) is engaged in economic development and business assistance work in the area; and

9 (c) owns or leases and operates or will operate the business incubator.

10 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
11 make the assessment change for the tax exemption provided for in this section.

12 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
13 assessed by the governing body approving the exemption over which the governing body has sole discretion.
14 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
15 the exemption applies to levies and assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ or
16 otherwise required under state law.

17 (5) Property taxes abated from the reduction in property taxes allowed by this section are subject to
18 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
19 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
20 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
21 during any period in which an abatement under the provisions of this section was in effect. The amount
22 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
23 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
24 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
25 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
26 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
27

28 **Section 9.** Section 15-24-1902, MCA, is amended to read:

29 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
30 and operated by a local economic development organization or a port authority is eligible for an exemption from

property taxes as provided in this section.

(2) In order to qualify for the tax exemption described in this section, the governing body of the county, consolidated government, incorporated city or town, or school district in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each industrial park in its respective jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that:

(a) the local economic development organization:

(i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

(ii) is engaged in economic development and business assistance work in the area; and

(iii) owns and operates or will own and operate the industrial development park; or

(b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall make the assessment change for the tax exemption provided for in this section.

(4) The tax exemption described in subsection (1) applies only to the number of mills levied and assessed by the governing body approving the exemption over which the governing body has sole discretion. If the governing body of a county, consolidated government, or incorporated city or town approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ or otherwise required under state law.

(5) If a local economic development organization sells, leases, or otherwise disposes of the exempt property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state, or local government, the tax exemption provided in this section terminates. The termination of the exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to

1 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
2 during any period in which an abatement under the provisions of this section was in effect. The amount
3 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
4 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
5 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
6 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
7 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
8

9 **Section 10.** Section 15-24-2002, MCA, is amended to read:

10 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
11 owned by a local economic development organization that the local economic development organization intends
12 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
13 taxes as provided in this section.

14 (2) In order to qualify for the tax exemption described in this section, the governing body of the affected
15 county, consolidated government, incorporated city or town, or school district in which the building and land are
16 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and hearing. The
17 governing body may approve or disapprove the tax exemption provided for in subsection (1). The governing body
18 shall approve a tax exemption by a separate resolution. The governing body may not grant approval for the
19 building and land until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude
20 approval. Prior to holding the hearing, the governing body shall determine that the local economic development
21 organization:

22 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
23 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

24 (b) is engaged in economic development and business assistance work in the area; and

25 (c) owns or will own the building and land.

26 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the department shall
27 make the assessment change for the tax exemption provided for in this section.

28 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
29 assessed by the governing body approving the exemption over which the governing body has sole discretion.
30 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,

the exemption applies to levies or assessments required under Title 15, chapter 10, ~~20-9-331, or 20-9-333~~ and other levies required under state law.

(5) When a local economic development organization sells, leases, or otherwise disposes of the exempt property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state, or local government, the tax exemption provided in this section terminates. The termination of the exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to recapture by the local governing body if the ownership or use of the property does not meet the requirements of this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."

Section 11. Section 15-39-110, MCA, is amended to read:

"15-39-110. Distribution of taxes. (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (12).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection (13).

(2) For the production of bentonite occurring after December 31, 2004, and before January 1, 2006, the tax determined under subsection (1)(a) is allocated according to the following schedule:

(a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 20-25-423;

(b) 18.14% to the state general fund ~~to be appropriated for the purposes of the tax levies as provided~~

1 in ~~20-9-331, 20-9-333, and 20-9-360~~;

2 (c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing
3 jurisdictions in which production occurs, except a distribution may not be made for ~~county and state levies~~ the
4 levy under ~~20-9-331, 20-9-333, 20-9-360, and 20-25-423~~; and

5 (d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing
6 jurisdictions in which production occurs, except a distribution may not be made for ~~county and state levies~~ the
7 levy under ~~20-9-331, 20-9-333, 20-9-360, and 20-25-423~~.

8 (3) For the production of bentonite occurring after December 31, 2005, and before January 1, 2007, 90%
9 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 10% must
10 be distributed as provided in subsection (13).

11 (4) For the production of bentonite occurring after December 31, 2006, and before January 1, 2008, 80%
12 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 20% must
13 be distributed as provided in subsection (13).

14 (5) For the production of bentonite occurring after December 31, 2007, and before January 1, 2009, 70%
15 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 30% must
16 be distributed as provided in subsection (13).

17 (6) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60%
18 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must
19 be distributed as provided in subsection (13).

20 (7) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50%
21 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must
22 be distributed as provided in subsection (13).

23 (8) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40%
24 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must
25 be distributed as provided in subsection (13).

26 (9) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30%
27 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must
28 be distributed as provided in subsection (13).

29 (10) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20%
30 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must

1 be distributed as provided in subsection (13).

2 (11) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10%
3 of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must
4 be distributed as provided in subsection (13).

5 (12) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of
6 the tax determined under subsection (1)(a) must be distributed as provided in subsection (13).

7 (13) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the
8 distribution percentages determined under subsections (3) through (12) are allocated according to the following
9 schedule:

10 (a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the
11 purposes of the state tax levy as provided in 20-25-423;

12 (b) 20.75% to the state general fund ~~to be appropriated for the purposes of the tax levies as provided~~
13 ~~in 20-9-331, 20-9-333, and 20-9-360;~~

14 (c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year
15 mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county
16 and state levies under 15-10-107, ~~20-9-331, 20-9-333, 20-9-360,~~ and 20-25-423.

17 (14) The department shall remit the amounts to be distributed in this section to the county treasurer by
18 the following dates:

19 (a) On or before October 1 of each year, the department shall remit the county's share of bentonite
20 production tax payments received for the semiannual period ending June 30 of the current year to the county
21 treasurer.

22 (b) On or before April 1 of each year, the department shall remit the county's share of bentonite
23 production tax payments received to the county treasurer for the semiannual period ending December 31 of the
24 previous year.

25 (15) (a) The department shall also provide to each county the amount of gross yield of value from
26 bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield
27 of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining
28 school district debt limits under 20-9-406.

29 (b) The percentage amount of the gross yield of value determined under subsection (15)(a) must be
30 treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding

provisions as provided by law."

Section 12. Section 15-65-101, MCA, is amended to read:

"15-65-101. Definitions. For purposes of this part, the following definitions apply:

(1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges.

(2) (a) "Campground" means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(3) "Council" means the tourism advisory council established in 2-15-1816.

(4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(b) The term does not include any health care facility, as defined in 50-5-101, any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(5) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city; or consolidated city-county; ~~resort area, or resort area district~~ in which the bureau is located.

(6) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions established by executive order of the governor.

~~(7) "Resort area" means an area established pursuant to 7-6-1508.~~

1 ~~—— (6) "Resort area district" has the meaning provided in 7-6-1531."~~

2
3 **Section 13.** Section 15-65-121, MCA, is amended to read:

4 **"15-65-121. (Temporary) Distribution of tax proceeds.** (1) The proceeds of the tax imposed by
5 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account in the state special
6 revenue fund to the credit of the department. The department may spend from that account in accordance with
7 an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the
8 proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of
9 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine the
10 expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from
11 the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds
12 from which in-state lodging expenditures were paid by state agencies. The amount of \$400,000 each year must
13 be deposited in the Montana heritage preservation and development account provided for in 22-3-1004. The
14 balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure
15 appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state
16 agencies, or deposited in the heritage preservation and development account is statutorily appropriated, as
17 provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the
18 department of commerce for tourism promotion and promotion of the state as a location for the production of
19 motion pictures and television commercials, to the Montana historical society, to the university system, and to the
20 department of fish, wildlife, and parks, as follows:

21 (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside
22 historical signs and historic sites;

23 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
24 program;

25 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
26 have both resident and nonresident use;

27 (d) 67.5% to be used directly by the department of commerce; and

28 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional
29 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
30 collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city; or consolidated city-county; ~~resort area, or resort area district~~ exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city; or consolidated city-county; ~~resort area, or resort area district~~ is located, to be distributed to the nonprofit convention and visitors bureau in that city; or consolidated city-county; ~~resort area, or resort area district~~.

(2) If a city; or consolidated city-county; ~~resort area, or resort area district~~ qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city; or consolidated city-county; ~~resort area, or resort area district~~ is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials. (Terminates July 1, 2007--sec. 3, Ch. 469, L. 2001.)

15-65-121. (Effective July 1, 2007) Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 15-1-501 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside

1 historical signs and historic sites;

2 (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research
3 program;

4 (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that
5 have both resident and nonresident use;

6 (d) 67.5% to be used directly by the department of commerce; and

7 (e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional
8 nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds
9 collected statewide; and

10 (ii) if 22.5% of the proceeds collected annually within the limits of a city; or consolidated city-county; ~~resort~~
11 ~~area, or resort area district~~ exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit
12 tourism corporation in the region where the city; or consolidated city-county; ~~resort area, or resort area district~~
13 is located, to be distributed to the nonprofit convention and visitors bureau in that city; or consolidated city-county;
14 ~~resort area, or resort area district~~.

15 (2) If a city; or consolidated city-county; ~~resort area, or resort area district~~ qualifies under this section for
16 funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an
17 annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit
18 tourism corporation in the region in which the city; or consolidated city-county; ~~resort area, or resort area district~~
19 is located.

20 (3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing
21 plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation
22 may be used by the department of commerce for tourism promotion and promotion of the state as a location for
23 the production of motion pictures and television commercials."
24

25 **Section 14.** Section 15-65-122, MCA, is amended to read:

26 **"15-65-122. Qualification of nonprofit entities for receipt of funds -- limitation on administrative**
27 **costs.** (1) The department of revenue shall provide the council with quarterly reports of regional tax proceeds
28 and tax proceeds of cities; and consolidated city-counties; ~~resort areas, and resort area districts~~ that qualify for
29 disbursement of funds under 15-65-121.

30 (2) Funds may not be disbursed to a regional nonprofit tourism corporation or nonprofit convention and

visitors bureau until that entity has submitted an annual marketing plan to the council and that plan has been approved by the council.

(3) A maximum of 20% of the funds received by a regional nonprofit tourism corporation or nonprofit convention and visitors bureau may be used for administrative purposes as defined by the council."

Section 15. Section 15-68-101, MCA, is amended to read:

"15-68-101. Definitions. For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) (a) "Accommodations" means a building or structure containing individual sleeping rooms or suites that provides overnight lodging facilities for periods of less than 30 days to the general public for compensation.

(b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.

(c) The term does not include a health care facility, as defined in 50-5-101, any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under 18 years of age for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(2) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or event.

(b) The term does not include payment for admittance to a movie theater or to a sporting event sanctioned by a school district, college, or university.

(3) (a) "Base rental charge" means the following:

(i) charges for time of use of the rental vehicle and mileage, if applicable;

(ii) charges accepted by the renter for personal accident insurance;

(iii) charges for additional drivers or underage drivers; and

(iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the rental vehicle.

(b) The term does not include:

(i) rental vehicle price discounts allowed and taken;

(ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator for the

1 privilege of operating as a concessionaire at an airport terminal building;

2 (iii) motor fuel;

3 (iv) intercity rental vehicle drop charges; or

4 (v) taxes imposed by the federal government or by state or local governments.

5 (4) (a) "Campground" means a place used for public camping where persons may camp, secure tents,
6 or park individual recreational vehicles for camping and sleeping purposes.

7 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
8 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
9 more.

10 (5) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose
11 of receiving direct or indirect benefit.

12 (6) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal
13 property for a fixed or indeterminate term for consideration. A lease or rental may include future options to
14 purchase or extend.

15 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
16 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the
17 property, as defined in 26 U.S.C. 7701(h)(1).

18 (c) The term does not include:

19 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
20 that requires the transfer of title upon completion of the required payments;

21 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
22 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
23 or 1% of the total required payments; or

24 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
25 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

26 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction
27 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,
28 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

29 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive
30 impact on existing leases or rentals.

1 (7) (a) "Luxury goods" means any gift item, luxury item, or other item or any service normally sold to the
2 public, to transient visitors, or to tourists, including but not limited to the following:

3 (i) lodging in facilities providing accommodations;

4 (ii) meals prepared either for onsite consumption or to take out;

5 (iii) alcoholic beverages sold by the drink;

6 (iv) rentals of motor vehicles;

7 (v) rentals of camping, hunting, fishing, or other recreational equipment;

8 (vi) ski lift tickets at destination resorts, hunting and fishing guide services, guided tours, trail rides, and
9 other recreational services;

10 (vii) admissions for movies, theatrical presentations, exhibits, and sporting events other than
11 school-related events or nonprofit events;

12 (viii) daily fees at golf courses that are not owned by a governmental entity;

13 (ix) admissions for water slides, amusement parks, or hot springs or other resorts; and

14 (x) souvenir items.

15 (b) The term does not include motor fuels, food purchased unprepared or unserved, medicine, medical
16 supplies and services, appliances, hardware supplies and tools, goods used in agricultural production, clothing
17 other than souvenirs, household bedding, furnishings, or any necessities of life.

18 (8) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical
19 maintenance purposes, whether or not prescribed by a physician.

20 (9) "Medicine" means substances sold for curative or remedial purposes, including both
21 physician-prescribed and over-the-counter medications.

22 ~~(7) (a)~~ (10) (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in
23 61-1-101, a motor-driven cycle as defined in 61-1-101, a quadricycle as defined in 61-1-101, a motorboat or a
24 sailboat as defined in 23-2-502, a snowmobile, as defined in 23-2-601, or an off-highway vehicle as defined in
25 23-2-801 that:

26 (i) is rented for a period of not more than 30 days;

27 (ii) is rented without a driver, pilot, or operator; and

28 (iii) is designed to transport 15 or fewer passengers.

29 (b) Motor vehicle includes:

30 (i) a rental vehicle rented pursuant to a contract for insurance; and

(ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented without a driver, and that is used in the transportation of personal property.

(c) The term does not include farm vehicles, machinery, or equipment.

~~(8)(11)~~ "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.

~~(9)(12)~~ "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability company, limited liability partnership, or any other legal entity.

~~(10)(13)~~ "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

~~(11)(14)~~ "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of the motor vehicle through an arrangement and for consideration.

~~(12)(15)~~ "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

~~(13)(16)~~ "Sale" or "selling" means the transfer of property for consideration or the performance of a service for consideration.

~~(14)(a)~~ (17)(a) "Sales price" applies to the measure subject to sales tax and means the total amount or consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented or valued in money, whether received in money or otherwise, without any deduction for the following:

(i) the seller's cost of the property sold;

(ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(iv) delivery charges;

(v) installation charges;

(vi) the value of exempt personal property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise; and

(vii) credit for any trade-in.

(b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (17)(a)(iii) through ~~(14)(a)(vii)~~ (17)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar

document given to the purchaser.

(c) The term does not include:

(i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) interest, financing, and carrying charges from credit extended on the sale of personal property or services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, sales price means the reasonable value of the property or service exchanged.

(e) When the sale of property or services is made under any type of charge or conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price, excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

~~(15)~~(18) "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102.

~~(16)~~(19) "Seller" means a person that makes sales, leases, or rentals of personal property or services.

~~(17)~~~~(a)~~(20) (a) "Service" means an activity that is engaged in for another person for consideration and that is distinguished from the sale or lease of property. Service includes activities performed by a person for its members or shareholders.

(b) In determining what a service is, the intended use, principal objective, or ultimate objective of the contracting parties is irrelevant.

~~(18)~~(21) "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use solely outside this state, in the ordinary course of business."

Section 16. Section 15-68-102, MCA, is amended to read:

"15-68-102. Imposition and rate of sales tax and use tax -- exceptions. (1) A sales tax of ~~the~~ following percentages is imposed on sales of the following property or services:

~~—— (a) 3% on accommodations and campgrounds;~~

~~—— (b) 4% on the base rental charge for rental vehicles~~ is imposed on luxury goods.

(2) The sales tax is imposed on the purchaser and must be collected by the seller and paid to the

department by the seller. The seller holds all sales taxes collected in trust for the state. The sales tax must be applied to the sales price.

(3) (a) For the privilege of using property or services within this state, there is imposed on the person using ~~the following property or services~~ luxury goods a use tax equal to ~~the following percentages of the value of the property or services:~~

~~—— (i) 3% on accommodations and campgrounds;~~

~~—— (ii) 4% on the base rental charge for rental vehicles.~~

(b) The use tax is imposed on property or services that were:

(i) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state;

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside the exterior boundaries of an Indian reservation within this state;

(iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (1) or the use tax imposed by subsection (3)(a) but which transaction, because of the buyer's subsequent use of the property, is subject to the sales tax or use tax; or

(iv) rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that because of the buyer's subsequent use of the services is subject to the sales tax or use tax.

(4) For purposes of this section, the value of property must be determined as of the time of acquisition, introduction into this state, or conversion to use, whichever is latest.

(5) The sale of property or services exempt or nontaxable under this chapter is exempt from the tax imposed in subsections (1) and (3).

~~(6) Lodging facilities and campgrounds are exempt from the tax imposed in subsections (1)(a) and (3)(a)(i) until October 1, 2003, for contracts entered into prior to April 30, 2003, that provide for a guaranteed charge for accommodations or campgrounds."~~

Section 17. Section 15-68-820, MCA, is amended to read:

"15-68-820. Sales tax and use tax proceeds. All money collected under this chapter must be deposited by the department into the general fund to be used for state equalization aid as provided in 20-9-343."

1 **Section 18.** Section 16-4-420, MCA, is amended to read:

2 **"16-4-420. Restaurant beer and wine license.** (1) The department shall issue a restaurant beer and
3 wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the
4 requirements of this section, meets the following qualifications and conditions:

5 (a) in the case of an individual applicant:

6 (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business
7 person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all
8 applicable laws of the state and local governments; and

9 (ii) the applicant is not under 19 years of age;

10 (b) in the case of a corporate applicant:

11 (i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board
12 of directors must meet the requirements of subsection (1)(a);

13 (ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of
14 the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and

15 (iii) the corporation is authorized to do business in Montana;

16 (c) in the case of any other business entity, including but not limited to partnerships, including limited
17 liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:

18 (i) if the applicant consists of more than one individual, all individuals must meet the requirements of
19 subsection (1)(a); and

20 (ii) if the applicant consists of more than one corporation, all corporations listed on a national stock
21 exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock
22 exchange must meet the requirements of subsection (1)(b)(ii);

23 (d) the applicant operates a restaurant at the location where the restaurant beer and wine license will
24 be used or satisfies the department that:

25 (i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and
26 intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of
27 operation is expected to be the result of the sale of food;

28 (ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the
29 restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be
30 stated on the food bill; and

1 (iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department
2 by rule;

3 (e) the applicant understands and acknowledges in writing on the application that this license prohibits
4 the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines
5 and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine
6 license will be used, the activity must be discontinued or the machines must be removed before the restaurant
7 beer and wine license takes effect; and

8 (f) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current
9 seating capacity if the restaurant is operating.

10 (2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic
11 beverage may not be considered for a restaurant beer and wine license at the same location.

12 (b) A restaurant that sells its existing retail license may not apply for a license under this section for a
13 period of 1 year from the date that license is transferred to a new purchaser.

14 (3) A completed application for a license under this section and the appropriate application fee, as
15 provided in subsection (11), must be submitted to the department. The department shall investigate the items
16 relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the
17 investigation and the exercise of its sound discretion, the department shall determine whether:

18 (a) the applicant is qualified to receive a license;

19 (b) the applicant's premises are suitable for the carrying on of the business;

20 (c) the requirements of this code and the rules promulgated by the department are complied with; and

21 (d) the seating capacity stated on the application is correct.

22 (4) An application for a beer and wine license submitted under this section is subject to the provisions
23 of 16-4-203, 16-4-207, and 16-4-405.

24 (5) If a premises proposed for licensing under this section is a new or remodeled structure, then the
25 department may issue a conditional license prior to completion of the premises based on reasonable evidence,
26 including a statement from the applicant's architect or contractor confirming that the seating capacity stated on
27 the application is correct, that the premises will be suitable for the carrying on of business as a bona fide
28 restaurant, as defined in subsection (6).

29 (6) For purposes of this section, "restaurant" means a public eating place where individually priced meals
30 are prepared and served for on-premises consumption. At least 65% of the restaurant's annual gross income from

1 the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a
2 license is issued, the applicant shall file with the department a statement, in a form approved by the department,
3 attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of
4 food. The restaurant must have a dining room, a kitchen, and the number and kinds of employees necessary for
5 the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for
6 use as a full-service restaurant. A full-service restaurant is a restaurant that provides an evening dinner meal.

7 (7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be
8 transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there
9 is no change of location, and the original owner may transfer location after the license is issued by the department
10 to a new location, upon approval by the department.

11 (ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer
12 of the license to the new owner.

13 (b) A license issued under this section may be jointly owned, and the license may pass to the surviving
14 joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person
15 or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property
16 upon the death of the owner in this state or in another state.

17 (c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of
18 the department, transfer a restaurant beer and wine license to a new owner.

19 (8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

20 (i) for a restaurant located in a quota area with a population of 20,000 persons or fewer, as the quota
21 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota
22 area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant
23 to 16-4-105;

24 (ii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota
25 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota
26 area is equal to or less than 50% of the number of beer licenses that may be issued in that quota area pursuant
27 to 16-4-105; and

28 (iii) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota
29 area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota
30 area is equal to or less than 40% of the number of beer licenses that may be issued in that quota area pursuant

1 to 16-4-105; and

2 ~~—— (iv) for a restaurant located in a quota area that is also a resort community, as the resort community is~~
3 ~~designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses~~
4 ~~issued in the quota area that is also a resort community is equal to or less than 100% of the number of beer~~
5 ~~licenses that may be issued in that quota area pursuant to 16-4-105.~~

6 (b) In determining the number of restaurant beer and wine licenses that may be issued under this
7 subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(iii), the
8 department shall round to the nearer whole number.

9 (c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota
10 area under subsections (8)(a)(i) through (8)(a)(iii), there must be a one-time adjustment of one additional license
11 for that quota area.

12 (d) If there are more applicants than licenses available in a quota area, then the license must be awarded
13 by lottery as provided in subsection (9).

14 (9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses
15 under this section or as the result of an increase in the population in the quota area, the nonrenewal of a
16 restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department
17 shall advertise the availability of the license in the quota area for which it is available. If there are more applicants
18 than number of licenses available, the license must be awarded to an applicant by a lottery.

19 (b) Any applicant who operates a restaurant that meets the qualifications of subsection (6) for at least
20 12 months prior to the filing of an application must be given a preference, and any unsuccessful lottery applicants
21 from previous selections must also be given a preference. An applicant with both preferences must be awarded
22 a license before any applicant with only one preference.

23 (c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will
24 be required to submit a completed application and a one-time required fee. An applicant's ranking may not be
25 sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the
26 intended license advertised by the department or to the number of licenses determined under subsection (8)
27 when there are more applicants than licenses available. The applicant's qualifications for any other restaurant
28 beer and wine license awarded by lottery must be determined at the time of the lottery.

29 (10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises
30 consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

Section 19. Section 17-3-213, MCA, is amended to read:

"17-3-213. Allocation of forest reserve funds and other federal funds -- options provided in federal law. (1) The board of county commissioners in each county shall decide among payment options provided in subsections (2) through (4), as provided in Public Law 106-393, to determine how the forest reserve funds and Public Law 106-393 funds apportioned to each county must be distributed by the county treasurer pursuant to this section.

(2) If a board of county commissioners chooses to receive a payment that is 25% of the revenue derived from national forest system lands, as provided in 16 U.S.C. 500, all funds received must be distributed as

provided in subsection (5).

(3) (a) Except as provided in subsection (4), if a county elects to receive the county's full payment under Public Law 106-393, a minimum of 80% up to a maximum of 85% of the county's full payment must be designated by the county for distribution as provided in subsection (5).

(b) The balance not distributed pursuant to subsection (3)(a) may be allocated by the county in accordance with Public Law 106-393.

(4) If a county's full payment is less than \$100,000, the county may elect to distribute up to 100% of the payment as provided in subsection (5).

(5) The total amount designated by a county in accordance with subsection (3)(a) or (4) must be distributed as follows:

(a) to the general road fund, 66 2/3% of the amount designated;

(b) to the following countywide school levies, 33 1/3% of the amount designated:

~~(i) county equalization for elementary schools provided for in 20-9-331;~~

~~(ii) county equalization for high schools provided for in 20-9-333;~~

~~(iii)~~(i) the county transportation fund provided for in 20-10-146; and

~~(iv)~~(ii) the elementary and high school district retirement fund obligations provided for in 20-9-501.

(6) The apportionment of money to the funds provided for under subsection (5)(b) must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under subsection (5)(b) is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be reapportioned in the ensuing school fiscal year to the levies designated in subsection (5)(b).

(7) In counties in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share of the 66 2/3% distributed under subsection (5)(b) for the general road fund to the special road districts within the county based upon the percentage that the total area of the road district bears to the total area of the entire county."

Section 20. Section 20-6-702, MCA, is amended to read:

"20-6-702. Funding for K-12 school districts. (1) Notwithstanding the provisions of subsections (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for

1 high school districts.

2 (2) The number of elected trustees of the K-12 school district must be based on the classification of the
3 attached elementary district under the provisions of 20-3-341 and 20-3-351.

4 (3) Calculations for the following must be made separately for the elementary school program and the
5 high school program of a K-12 school district:

6 (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in
7 accordance with the provisions of 20-9-311;

8 (b) the ~~basic county tax for elementary equalization and~~ revenue for the elementary BASE funding
9 program for the district must be determined in accordance with the provisions of 20-9-331, and the ~~basic county~~
10 ~~tax for high school equalization and~~ revenue for the high school BASE funding program for the district must be
11 determined in accordance with 20-9-333; and

12 (c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be
13 calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget
14 levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program
15 amounts for elementary school programs to the BASE funding program amounts for high school programs.

16 (4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school
17 district must be calculated and funded as a high school district retirement obligation under the provisions of
18 20-9-501.

19 (5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any
20 of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs
21 of the district.

22 (6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils
23 and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures
24 used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school
25 programs in the appropriate funds of each district in the year prior to the attachment of the districts."
26

27 **Section 21.** Section 20-9-212, MCA, is amended to read:

28 **"20-9-212. Duties of county treasurer.** The county treasurer of each county:

29 (1) must receive and shall hold all school money subject to apportionment and keep a separate
30 accounting of its apportionment to the several districts that are entitled to a portion of the money according to the

1 apportionments ordered by the county superintendent or by the superintendent of public instruction. A separate
2 accounting must be maintained for each county fund supported by a countywide levy for a specific, authorized
3 purpose, including:

4 ~~(a) the basic county tax for elementary equalization;~~

5 ~~—— (b) the basic county tax for high school equalization;~~

6 ~~(c)(a)~~ the county tax in support of the transportation schedules;

7 ~~(d)(b)~~ the county tax in support of the elementary and high school district retirement obligations; and

8 ~~(e)(c)~~ any other county tax for schools, including the community colleges, that may be authorized by law
9 and levied by the county commissioners.

10 (2) whenever requested, shall notify the county superintendent and the superintendent of public
11 instruction of the amount of county school money on deposit in each of the funds enumerated in subsection (1)
12 and the amount of any other school money subject to apportionment and apportion the county and other school
13 money to the districts in accordance with the apportionment ordered by the county superintendent or the
14 superintendent of public instruction;

15 (3) shall keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

16 (4) except as otherwise limited by law, shall pay all warrants properly drawn on the county or district
17 school money;

18 (5) must receive all revenue collected by and for each district and shall deposit these receipts in the fund
19 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent school
20 taxes must be credited to the same fund and district for which the original taxes were levied.

21 (6) shall send all revenue received for a joint district, part of which is situated in the county, to the county
22 treasurer designated as the custodian of the revenue, no later than December 15 of each year and every 3
23 months after that date until the end of the school fiscal year;

24 (7) at the direction of the trustees of a district, shall assist the district in the issuance and sale of tax and
25 revenue anticipation notes as provided in Title 7, chapter 6, part 11;

26 (8) shall register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there
27 is insufficient money available in all funds of the district to make payment of the warrant. Redemption of registered
28 warrants must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

29 (9) when directed by the trustees of a district, shall invest the money of the district within 3 working days
30 of the direction;

(10) each month, shall give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types of revenue received, and the cash balance;

(11) shall remit promptly to the department of revenue receipts for the county tax for a vocational-technical program within a unit of the university system when levied by the board of county commissioners under the provisions of 20-25-439;

(12) shall invest the money received from ~~the basic county taxes for elementary and high school equalization~~, the county levy in support of the elementary and high school district retirement obligations; and the county levy in support of the transportation schedules within 3 working days of receipt. The money must be invested until the working day before it is required to be distributed to school districts within the county or remitted to the state. Clerks of a school district shall provide a minimum of 30 hours' notice in advance of cash demands to meet payrolls, claims, and electronic transfers that are in excess of \$50,000, pursuant to 20-3-325. If a clerk of a district fails to provide the required 30-hour notice, the county treasurer shall assess a fee equal to any charges demanded by the state investment pool or other permissible investment manager for improperly noticed withdrawal of funds. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and credited proportionately, in the funds established to account for the taxes received for the purposes specified in subsections (1)(a) through (1)(d).

(13) shall remit on a monthly basis to the department of revenue, as provided in 15-1-504, all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all interest earned, in repayment of the state advance for county equalization prescribed in 20-9-347. Any funds in excess of a state advance must be used as required in ~~20-9-331(1)(b)~~ 20-9-331(1) and ~~20-9-333(1)(b)~~ 20-9-333(1)."

Section 22. Section 20-9-331, MCA, is amended to read:

"20-9-331. ~~Basic county tax for elementary equalization and other revenue~~ Revenue for county equalization of elementary BASE funding program. (1) ~~Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary BASE funding programs of the school districts in the county and to the state general fund in the following manner:~~

~~_____ (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.~~

~~_____ (b) If the basic levy and other revenue prescribed by this section produce~~ produces more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from ~~the county's portion of the levy prescribed by this section and the revenue from~~ the following sources must be used for the equalization of the elementary BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds designated for the elementary county equalization fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

~~(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;~~

~~(f)~~(e) gross proceeds taxes from coal under 15-23-703; and

~~(g)~~(f) oil and natural gas production taxes."

Section 23. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic county tax for high school equalization and other revenue Revenue **for county equalization of high school BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529,**

61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general fund in the following manner:

———(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.

———(b) If the basic levy and other revenue prescribed by this section produce produces more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

~~(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;~~

~~(c)~~(b) gross proceeds taxes from coal under 15-23-703; and

~~(d)~~(c) oil and natural gas production taxes."

Section 24. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) (a) As used in this title, the term "state equalization aid" means revenue as required in this section for:

~~(a)~~(i) distribution to the public schools for guaranteed tax base aid, BASE aid, state reimbursement for school facilities, and grants for school technology purchases; and

~~(b)~~(ii) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(b) The term includes sales tax revenue deposited in the state general fund as provided in 15-68-820.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for

the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

~~(3) From July 1, 2001, through June 30, 2003, the following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:~~

~~—— (a) interest and income money described in 20-9-341 and 20-9-342; and~~

~~—— (b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342.~~

~~(4)(3)~~ Beginning July 1, 2003, the The following money must be paid into the guarantee account provided for in 20-9-622 for the public schools of the state as indicated:

(a) (i) subject to subsection ~~(4)(a)(ii)~~ (3)(a)(ii), interest and income money described in 20-9-341 and 20-9-342; and

(ii) an amount of money equal to the income money attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;

(b) investment income earned by investing interest and income money described in 20-9-341 and 20-9-342."

Section 25. Section 20-9-620, MCA, is amended to read:

"20-9-620. Definition. (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue" means, except for that portion of revenue described in ~~20-9-343(4)(a)(ii)~~ 20-9-343(3)(a)(ii) and available on or after July 1, 2003, in 77-1-607, and in 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

(2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

Section 26. Section 90-6-304, MCA, is amended to read:

"90-6-304. Accounts established. (1) There is within the state agency fund type a hard-rock mining impact account. Money is payable into this account from payments made by a mining developer in compliance

1 with the written guarantee from the developer to meet the increased costs of public services and facilities as
2 specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account
3 upon order of the board.

4 (2) There is within the state special revenue fund a hard-rock mining impact trust account. Within this
5 trust account, there is established a reserve amount not to exceed \$100,000.

6 (a) Money within the hard-rock mining impact trust account may be used:

7 (i) for the administrative and operating expenses of the board, as provided by 90-6-303(4);

8 (ii) to establish and maintain the reserve amount; and

9 (iii) for distribution to the counties of origin, as provided by 90-6-331 and this section.

10 (b) Money within the hard-rock mining impact trust account may be used for the administrative and
11 operating expenses of the board if:

12 (i) the revenue provided under 15-37-117(1)(b) is less than the amount appropriated for the
13 administrative and operating expenses of the board; or

14 (ii) the use of the reserve amount of revenue is necessary to allow the board to meet its quasi-judicial
15 responsibilities under 90-6-307, 90-6-311, or ~~90-6-403(3)~~ 90-6-403(2).

16 (3) Money is payable into the hard-rock mining impact trust account under the provisions of 15-37-117.
17 After first deducting the administrative and operating expenses of the board, as provided in 90-6-303, and then
18 establishing and maintaining the reserve amount of \$100,000, as provided in subsection (2) of this section, the
19 remaining money must be segregated within the account by county of origin. The state treasurer shall draw
20 warrants from this account upon order of the board."

21
22 **Section 27.** Section 90-6-305, MCA, is amended to read:

23 **"90-6-305. Hard-rock mining impact board -- general powers.** (1) The board may:

24 (a) retain professional staff, including its administrative staff, and retain consultants and advisers,
25 notwithstanding the provisions of 2-15-121;

26 (b) adopt rules governing its proceedings, determinations, and administration of this part;

27 (c) make payments to local government units from money paid to the hard-rock mining impact account
28 as provided in 90-6-307;

29 (d) make determinations as provided in 90-6-307, 90-6-311, and ~~90-6-403(3)~~ 90-6-403(2); and

30 (e) accept grants and other funds to be used in carrying out this part.

(2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and determinations of the board."

Section 28. Section 90-6-309, MCA, is amended to read:

"90-6-309. Tax prepayment -- large-scale mineral development. (1) After permission to commence operation is granted by the appropriate governmental agency, and upon request of the governing body of a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies for the school BASE funding program established in 20-9-331 and 20-9-333.

(2) The person who is to prepay under this section is not obligated to prepay the entire amount established in subsection (1) at one time. Upon request of the governing body of an affected local government unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

(3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as needed for expenditures created by the impacts of the large-scale mineral development.

(4) When the mineral development facilities are completed and assessed by the department of revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that in each year after the start of production, the local government unit that received a property tax prepayment shall provide for repayment of prepaid property taxes in accordance with subsection (5).

(5) A local government unit that received all or a portion of the property tax prepayment under this section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not, however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited to the productive life of the mining operation."

Section 29. Section 90-6-403, MCA, is amended to read:

"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain taxable valuation. (1) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this

section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation allocated to the local government unit is considered newly taxable property in the recipient local government unit as provided in 15-10-420.

~~(2) Subject to 15-10-420, the total taxable valuation of a large-scale mineral development remains subject to the statewide mill levies and basic county levies for elementary and high school BASE funding programs as provided in 20-9-331 and 20-9-333.~~

~~(3)~~(2) The provisions of subsection (1) remain in effect until the large-scale mineral development ceases operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the board."

NEW SECTION. Section 30. Repealer. Sections 7-6-1501, 7-6-1502, 7-6-1503, 7-6-1504, 7-6-1505, 7-6-1506, 7-6-1507, 7-6-1508, 7-6-1509, 7-6-1531, 7-6-1532, 7-6-1533, 7-6-1534, 7-6-1535, 7-6-1536, 7-6-1537, 7-6-1538, 7-6-1539, 7-6-1540, 7-6-1541, 7-6-1542, 7-6-1543, 7-6-1544, 7-6-1545, 7-6-1546, 7-6-1547, 7-6-1548, 7-6-1549, 7-6-1550, and 20-9-360, MCA, are repealed.

NEW SECTION. Section 31. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 32. Debt obligations. A resort community, resort area, or resort area district that issued bonds prior to [the effective date of this act] may continue to impose a tax authorized pursuant to the provisions of former Title 7, chapter 6, part 15, until the bonds are paid.

NEW SECTION. Section 33. Effective date -- applicability. [This act] is effective January 1, 2008, and applies to school district budgets adopted after that date.

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